

approved as satisfying the same portion of the State's NO<sub>x</sub> emission reduction obligations as the State projects such regulations will satisfy, provided that:

(i) The State has the legal authority to take such action and to implement its responsibilities under such regulations, and

(ii) The SIP revision accurately reflects the NO<sub>x</sub> emissions reductions to be expected from the State's implementation of such regulations.

(2) If a State adopts an emissions trading program that differs substantively from 40 CFR part 96 in only the following respects, then such portion of the State's SIP revision is approved as set forth in paragraph (p)(1) of this section:

(i) The State may expand the applicability provisions of the trading program to include units (as defined in 40 CFR 96.2) that are smaller than the size criteria thresholds set forth in 40 CFR 96.4(a);

(ii) The State may decline to adopt the exemption provisions set forth in 40 CFR 96.4(b);

(iii) The State may decline to adopt the opt-in provisions set forth in subpart I of 40 CFR part 96;

(iv) The State may decline to adopt the allocation provisions set forth in subpart E of 40 CFR part 96 and may instead adopt any methodology for allocating NO<sub>x</sub> allowances to individual sources, provided that:

(A) The State's methodology does not allow the State to allocate NO<sub>x</sub> allowances in excess of the total amount of NO<sub>x</sub> emissions which the State has assigned to its trading program; and

(B) The State's methodology conforms with the timing requirements for submission of allocations to the Administrator set forth in 40 CFR 96.41; and

(v) The State may decline to adopt the early reduction credit provisions set forth in 40 CFR 96.55(c) and may instead adopt any methodology for issuing credit from the State's compliance supplement pool that complies with paragraph (e)(3) of this section.

(3) If a State adopts an emissions trading program that differs substantively from 40 CFR part 96 other than as set forth in paragraph (p)(2) of

this section, then such portion of the State's SIP revision is not automatically approved as set forth in paragraph (p)(1) of this section but will be reviewed by the Administrator for approvability in accordance with the other provisions of this section.

(q) *Stay of Findings of Significant Contribution with respect to the 8-hour standard.* Notwithstanding any other provisions of this subpart, the effectiveness of paragraph (a)(2) of this section is stayed.

(r)(1) Notwithstanding any provisions of paragraph (p) of this section, subparts A through I of part 96 of this chapter, and any State's SIP to the contrary, the Administrator will not carry out any of the functions set forth for the Administrator in subparts A through I of part 96 of this chapter, or in any emissions trading program in a State's SIP approved under paragraph (p) of this section, with regard to any ozone season that occurs after September 30, 2008.

(2) Except as provided in § 51.123(bb) with regard to an ozone season that occurs before January 1, 2015, a State whose SIP is approved as meeting the requirements of this section and that includes an emissions trading program approved under paragraph (p) of this section must revise the SIP to adopt control measures that satisfy the same portion of the State's NO<sub>x</sub> emission reduction requirements under this section as the State projected such emissions trading program would satisfy.

[63 FR 57491, Oct. 27, 1998, as amended at 63 FR 71225, Dec. 24, 1998; 64 FR 26305, May 14, 1999; 65 FR 11230, Mar. 2, 2000; 65 FR 56251, Sept. 18, 2000; 69 FR 21642, Apr. 21, 2004; 70 FR 25317, May 12, 2005; 70 FR 51597, Aug. 31, 2005; 73 FR 21538, Apr. 22, 2008; 76 FR 48353, Aug. 8, 2011; 79 FR 71671, Dec. 3, 2014]

#### **§ 51.122 Emissions reporting requirements for SIP revisions relating to budgets for NO<sub>x</sub> emissions.**

(a) As used in this section, words and terms shall have the meanings set forth in § 51.50. In addition, the following terms shall apply to this section:

(1) Ozone season emissions means emissions during the period from May 1 through September 30 of a year.

(2) Summer day emissions means an average day's emissions for a typical

summer work weekday. The state will select the particular month(s) in summer and the day(s) in the work week to be represented.

(b) For its transport SIP revision under §51.121, each state must submit to EPA NO<sub>x</sub> emissions data as described in this section.

(c) Each revision must provide for periodic reporting by the state of NO<sub>x</sub> emissions data to demonstrate whether the state's emissions are consistent with the projections contained in its approved SIP submission.

(1) For the every-year reporting cycle, each revision must provide for reporting of NO<sub>x</sub> emissions data every year as follows:

(i) The state must report to EPA emissions data from all NO<sub>x</sub> sources within the state for which the state specified control measures in its SIP submission under §51.121(g), including all sources for which the state has adopted measures that differ from the measures incorporated into the baseline inventory for the year 2007 that the state developed in accordance with §51.121(g). The state must also report to EPA ozone season emissions of NO<sub>x</sub> and summer day emissions of NO<sub>x</sub> from any point, nonpoint, onroad mobile, or nonroad mobile source for which the state specified control measures in its SIP submission under §51.121(g).

(ii) If sources report NO<sub>x</sub> emissions data to EPA for a given year pursuant to a trading program approved under §51.121(p) or pursuant to the monitoring and reporting requirements of 40 CFR part 75, then the state need not provide an every-year cycle report to EPA for such sources.

(2) For the 3-year cycle reporting, each plan must provide for triennial (*i.e.*, every third year) reporting of NO<sub>x</sub> emissions data from all sources within the state. The state must also report to EPA ozone season emissions of NO<sub>x</sub> and summer day emissions of NO<sub>x</sub> from all point sources, nonpoint sources, onroad mobile sources, and nonroad mobile sources.

(3) The data availability requirements in §51.116 must be followed for all data submitted to meet the requirements of paragraphs (c)(1) and (2) of this section.

(d) [Reserved]

(e) Approval of ozone season calculation by EPA. Each state must submit for EPA approval an example of the calculation procedure used to calculate ozone season emissions along with sufficient information to verify the calculated value of ozone season emissions.

(f) *Reporting schedules.* Data collection is to begin during the ozone season 1 year prior to the state's NO<sub>x</sub> SIP Call compliance date.

(g) The state shall report emissions as point sources according to the point source emissions thresholds of the Air Emissions Reporting Rule (AERR), 40 CFR part 51, subpart A. The detail of the emissions inventory shall be consistent with the data elements required by 40 CFR part 51, subpart A. When submitting a formal NO<sub>x</sub> Budget Emissions Report and associated data, states shall notify the appropriate EPA Regional Office.

(g) The state shall report emissions as point sources according to the point source emissions thresholds of the Air Emissions Reporting Rule (AERR), 40 CFR part 51, subpart A. The detail of the emissions inventory shall be consistent with the data elements required by 40 CFR part 51, subpart A. When submitting a formal NO<sub>x</sub> Budget Emissions Report and associated data, states shall notify the appropriate EPA Regional Office.

[73 FR 76558, Dec. 17, 2008, as amended at 80 FR 8796, Feb. 19, 2015]

**§51.123 Findings and requirements for submission of State implementation plan revisions relating to emissions of oxides of nitrogen pursuant to the Clean Air Interstate Rule.**

(a)(1) Under section 110(a)(1) of the CAA, 42 U.S.C. 7410(a)(1), the Administrator determines that each State identified in paragraph (c)(1) and (2) of this section must submit a SIP revision to comply with the requirements of section 110(a)(2)(D)(i)(I) of the CAA, 42 U.S.C. 7410(a)(2)(D)(i)(I), through the adoption of adequate provisions prohibiting sources and other activities from emitting NO<sub>x</sub> in amounts that will contribute significantly to nonattainment in, or interfere with maintenance by, one or more other States with respect to the fine particles (PM<sub>2.5</sub>) NAAQS.